

*Verification of Household Income and Other Qualifications for the Provision of Affordable Care Act
Premium Tax Credits and Cost-Sharing Reductions*

Introduction

The Continuing Appropriations Act 2014, Pub. L. No. 113-46, Division B, 127 Stat. 558 (2013) requires the Secretary of Health and Human Services (“Secretary”) to submit a report to Congress no later than January 1, 2014 which details the procedures employed by the Exchanges to verify eligibility for premium tax credit (PTC) and cost-sharing reductions (CSRs). Under regulations adopted by the Secretary to implement section 1411 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010) (collectively, the Affordable Care Act (ACA)), Exchanges make eligibility determinations for advance payments of the premium tax credit using these verification procedures; those advance payments are later reconciled based on a determination of PTC eligibility made by the Department of the Treasury. The Secretary is issuing this report to provide Congress with a description of the statutory and regulatory requirements that Exchanges must follow to verify eligibility for advance payments of the premium tax credit (APTC) and CSRs. This report also provides descriptions of the operational processes Exchanges use to carry out eligibility-related verification of information provided by applicants.

In accordance with statute and applicable implementing regulations, when a consumer submits an application for insurance affordability programs (which include APTCs, CSRs, Medicaid, the Children’s Health Insurance Program (CHIP), and the Basic Health Program (BHP)), the Exchange verifies information provided by the consumer on the application as a component of making an eligibility determination. The processes for verifying information in order to determine eligibility for enrollment in a qualified health plan (QHP) through the Exchange and for APTC under section 36B of the Internal Revenue Code (the Code) and CSRs under section 1402 of the ACA are specified in the ACA and its implementing regulations. Pursuant to both statute and applicable regulations, the Exchanges have implemented numerous processes to carry out the verification of information provided by applicants.

Section 1411 of the ACA requires the Secretary to establish a program for determining whether an applicant meets the citizenship or lawful presence requirements for eligibility for enrollment in a QHP through the Exchange, and, if the applicant is seeking eligibility for APTC or CSRs, whether the applicant meets the income and coverage requirements for eligibility for APTC and CSRs.¹ Section 1411(b) specifies minimum information required to be provided by an applicant, including name, address, date of birth, social security number (if applicable, based on the applicant’s citizenship or

¹ Note: Pursuant to section 1402(d) of the ACA and 45 CFR 155.350, an Exchange must determine individuals who are members of Federally recognized tribes, as defined in section 4(d) of 25 U.S.C. 450b(d), eligible for CSRs if household income is at or below 300 percent of the Federal Poverty Level, and issuers shall eliminate any cost-sharing for covered services under a QHP. Additionally, an Exchange must determine such individuals eligible for CSRs regardless of income for covered services that are furnished through an Indian health care provider, and the issuer shall eliminate any cost-sharing for covered services under a QHP.

immigration status), and immigration status. For applicants seeking eligibility for APTC or CSR, section 1411(b) also specifies that the applicant must provide information regarding income and family size, and information regarding employer sponsored coverage. Section 1411(c) requires that some of this information (specifically, citizenship and lawful presence attestations and household income) must be verified against specified Federal records. In addition, section 1411(d) provides authority for the Secretary to determine the method through which other information provided by an applicant, for which the verification process is not otherwise specified in section 1411, is to be verified.

All Exchanges, including both State-based Exchanges (SBEs) and Federally-facilitated Exchanges (FEEs), must follow the applicable statutory and regulatory requirements to carry out the verification process. The individual verifications that Exchanges are required to perform as part of the eligibility determination process and the statutory and regulatory requirements pursuant to which these processes are performed are identified in the next section of this report. In addition, the operational processes that Exchanges use to perform the verifications are also described in the next section. CMS developed the Federal Data Services Hub (FDSH) and the FEEs' eligibility and enrollment system consistent with Federal statutes, regulations, and guidelines as well as industry standards that ensure the security, privacy, and integrity of systems and the data that flows through them. CMS also has security and privacy agreements with all Federal agencies, SBEs, and other state agencies connecting to the Hub.

While all Exchanges are required by statute and regulation to perform the eligibility verifications outlined in this report, including the required usage of available Federal data sources to perform eligibility verifications, there is some flexibility in how Exchanges can implement and perform these verifications. For example, the operational processes that SBEs employ may differ somewhat from those the FEEs employ. In addition to the Federal data sources available through the FDSH, which is being used by SBEs as the primary data source for performing eligibility verifications, SBEs in some cases have access to State data sources that can be utilized as an additional data source for performing the eligibility verifications, in coordination with those available at the Federal level. The ability for States to use additional data sources for purposes of conducting verifications of certain eligibility information is specified in 45 CFR 155.315 and 155.320, and the additional data sources are approved by HHS as part of the Exchange Blueprint, as specified in 45 CFR 155.315(h) and 45 CFR 155.105(d) and (e).

In order to oversee and validate the processes that SBEs use to perform eligibility-related verifications, the Department of Health and Human Services (HHS) has developed several tools. These oversight tools ensure that SBEs meet all statutory and regulatory requirements and also ensure that the operational processes that the SBEs employ appropriately verify applicant information and determine eligibility for enrollment. The tools and methods that HHS uses for oversight and validation of SBE processes are described in the third section of this report.

Section II: Statutory and regulatory requirements for verifications and operational processes for verifications²

The following paragraphs describe each verification that an Exchange is required to carry out to verify eligibility for APTC and CSRs. Certain attestations or other information provided by either the applicant, or application filer in cases where the application filer is applying on behalf of others in the household, are required to be verified by the Exchange. Attestations about tax filing associated with receipt of APTCs are required to be made by the tax filer. Each subsection below describes the statutory and regulatory requirements for a specific verification, as well as the operational processes that Exchanges use to perform that verification.

Verification of Social Security number

Section 1411(c)(2) of the ACA states that for citizenship or immigration status, the Secretary shall submit specified information to the Commissioner of Social Security to determine whether the information provided by the applicant or application filer is consistent with the information in the records of the Commissioner. The information provided to the Social Security Administration (SSA) includes the applicant's name, date of birth, Social Security number, and an attestation that the individual is a citizen, if applicable. 45 CFR 155.315 describes the verification process related to eligibility for enrollment in a QHP through the Exchange, and section 155.315(b) describes the process for validation of Social Security number. It states that, for any individual who provides his or her Social Security number to the Exchange, the Exchange must transmit the Social Security number and other identifying information to HHS, which will submit it to SSA. If the Exchange is unable to verify the Social Security number through SSA or SSA indicates that the individual is deceased, the Exchange must provide the applicant with a 90 day inconsistency period as provided in 45 CFR 155.315(b)(2) and (f) to provide documentary evidence or otherwise resolve the inconsistency.

FFEes and SBEs use the operational process of electronic data matching with SSA to carry out the validation of Social Security numbers (SSNs).

Verification of citizenship, status as a national, or lawful presence

Section 1411(c)(2)(B) of the ACA states that for an individual who attests that he or she is an alien lawfully present in the United States or is a citizen but with respect to whom the Commissioner of Social Security has notified the Secretary that the individual's attestation of citizenship is inconsistent with the information in the Commissioner's records, the Secretary shall submit specified information to the Secretary of Homeland Security for verification of citizenship or lawful presence. The information submitted to the Department of Homeland Security (DHS) includes the individual's name, date of birth, identifying information with respect to the individual's immigration status, and the attestation that the

² Except for certain tax-filing related attestations from the tax filer (who may or may not be the applicant), the attestations discussed in the verification process may be provided by the applicant or the application filer who submits the application on behalf of the applicant.

individual is a non-citizen lawfully present or an attestation that the individual is a citizen, as applicable. 45 CFR 155.315(c)(1) describes the process required for verification of citizenship, status as a national, or lawful presence. It states that for an applicant for whom an attestation is provided that attests to citizenship and the applicant's SSN, the Exchange must transmit the SSN and other identifying information to HHS, which will submit the information to SSA. Section 155.315(c)(2) states that for an applicant who attests to lawful presence or attests to citizenship and for whom the Exchange cannot verify the claim of citizenship through SSA, and who has documentation that can be verified through DHS, the Exchange must transmit information from the applicant's documentation and other identifying information to HHS, which will submit the information to DHS.

FFEes and SBEs use the operational process of electronic data matching with SSA and DHS to carry out the verification of citizenship, status as a national, or lawful presence. For an applicant for whom an attestation as to citizenship is provided and for whom the Exchange cannot verify the claim of citizenship through SSA, the applicant is asked if he or she is a naturalized or derived citizen, and if so whether he or she has naturalization or citizenship documentation verifiable by DHS. If the applicant does, the Exchange must transmit the information to HHS, which will submit the information to DHS. For an applicant for whom an attestation of citizenship, status as a national, or lawful presence is provided and for whom the Exchange cannot verify the attestation through SSA or DHS, the Exchange must provide the applicant with a 90 day inconsistency period as specified in 45 CFR 155.315(c)(3) and (f) to provide documentary evidence or otherwise resolve the inconsistency.

Verification of Residency

Section 1411(b)(1)(A) of the ACA requires an applicant for enrollment in a qualified health plan offered through an Exchange to provide the name, address, and date of birth of each individual applying for coverage. 45 CFR 155.305(a)(3) specifies the eligibility standards for residency and states that an applicant must meet the following standards: if he or she is an individual who is age 21 and over, is not living in an institution as defined in 42 CFR 435.403(b), is capable of indicating intent, and is not receiving an optional State supplementary payment as addressed in 42 CFR 435.403(f), then the service area of the Exchange of the individual is the service area of the Exchange in which he or she is living and intends to reside or has entered with a job commitment or is seeking employment; or if he or she is an individual who is under the age of 21, is not living in an institution as defined in 42 CFR 435.403(b), is not eligible for Medicaid based on receipt of assistance under title IV-E of the Social Security Act as addressed in 42 CFR 435.403(g), is not emancipated, is not receiving an optional State supplementary payment as addressed in 42 CFR 435.403(f), then the Exchange service area of the individual is the service area of the Exchange in which he or she resides or is the service area of the Exchange of a parent of caretaker.

45 CFR 155.315(d) specifies the verification of residency required for an eligibility determination for enrollment in a QHP through the Exchange. Section 155.315(d) states that the Exchange must verify the attestation of an applicant's residency, which is made subject to penalty of perjury and other applicable penalties, including those specified in section 1411(h) of the ACA, by doing the following: examining electronic data sources that are available to the Exchange and which have been approved by HHS for

this purpose and accepting the attestation except under specified circumstances. If the information provided about an applicant's residency is not reasonably compatible with other information provided by the applicant, the Exchange must examine electronic data sources available to the Exchange that have been approved by HHS for this purpose. If the information in these data sources is not reasonably compatible with the information provided by the applicant, the Exchange must provide the applicant with a 90 day inconsistency period as specified in 45 CFR 155.315(f) to provide documentary evidence to resolve the inconsistency.

Please note that there are separate residency verification rules for Medicaid and CHIP.

Verification of incarceration status

Section 1312(f)(1)(B) of the ACA states that an individual shall not be treated as a qualified individual if, at the time of enrollment, the individual is incarcerated, other than incarceration pending the disposition of charges. A qualified individual is defined in section 1312(f)(1)(A) of the ACA with respect to an Exchange as: an individual who is seeking to enroll in a QHP in the individual market offered through the Exchange and who resides in the State that established the Exchange, but excluding individuals who are incarcerated other than pending the disposition of charges. 45 CFR 155.315(e) specifies the requirements for verification of incarceration status. It states that the Exchange must verify the attestation, which is made subject to penalty of perjury and other applicable penalties, including those specified in section 1411(h) of the ACA, that an applicant is not incarcerated by: relying on electronic data sources that are available to the Exchange and which have been approved by HHS for this purpose, or if an approved data source is unavailable, accepting the attestation; however, if the attestation provided by the applicant or application filer is not compatible with information from approved data sources or other information from the applicant or in the records of the Exchange, the Exchange must provide the applicant with a 90 day inconsistency period as specified in 45 CFR 155.315(f) to provide documentary evidence to resolve the inconsistency.

Verification of minimum essential coverage (MEC) other than through employer sponsored insurance (ESI)

45 CFR 155.320 describes the verification process related to additional eligibility criteria for insurance affordability programs. Section 36B(c)(2)(B) of the Code makes APTC and CSR available to enrollees for coverage months for which they are eligible. Section 36B(c)(2)(B) specifies that a coverage month shall not include any month with respect to an individual if, for such month, the individual is eligible for minimum essential coverage (as defined in section 5000A(f) of the Code) other than through the individual market. Accordingly, 45 CFR 155.320(b) specifies the Exchange must verify whether an applicant is eligible for MEC other than through an eligible employer-sponsored plan, Medicaid, CHIP or the BHP, using information obtained by transmitting specified identifying information to HHS for verification purposes. When the Exchange transmits identifying information to HHS, this information is used to verify whether the applicant is eligible for coverage through Medicare, the Veterans Health Administration, TRICARE (Department of Defense), and the Peace Corps. The Exchange must also verify whether an applicant has already been determined eligible for coverage through Medicaid, CHIP,

or the BHP using information obtained from the agencies administering such programs. The process by which the Exchanges verify eligibility for MEC through an employer-sponsored plan is discussed below.

FFEes and SBEs use the operational process of electronic data matching for verification of MEC other than ESC.³

Verification of household income and family size

Section 1411(b)(3) of the ACA specifies information that must be provided for all applicants claiming APTC or CSRs. Such applicants are required to provide information regarding income and family size described in section 6103(l)(21) of the Code for the taxable year ending with or within the second calendar year preceding the calendar year in which the plan year begins. In addition, applicants are required to provide information regarding changes in circumstances that may occur with respect to the eligibility information specified in section 1412(b)(2) of the ACA. This includes information with respect to individuals who were not required to file an income tax return for the taxable year ending with or within the second calendar year preceding the calendar year in which the plan year begins or individuals who experience changes in marital status or family size or significant reductions in income.

45 CFR 155.320(c) specifies the requirements for verification of household income and family/household size as related to eligibility for insurance affordability programs. Section 155.320(c)(1) requires tax return data regarding modified adjusted gross income (MAGI) and family size to be requested for all individuals whose income is counted in calculating a tax filer's household income and for whom the Exchange has an SSN.

45 CFR 155.320(c)(3)(i) specifies the requirements for the family size verification process for eligibility for APTC and CSRs. The Exchange must require an attestation identifying the number and names of the individuals that comprise a tax filer's family; such attestations are provided under penalty of perjury and other applicable penalties, including those specified in section 1411(h) of the ACA. To the extent the applicant or application filer attests that tax return data regarding MAGI-based income represents an accurate projection of a tax filer's family size for the benefit year for which coverage is requested, the Exchange must determine the tax filer's eligibility for APTC and CSRs based on the family size data in the tax return data. To the extent that tax return data are not available, or an applicant attests that a change in circumstances has occurred or is reasonably expected to occur such that the tax return data does not represent an accurate projection of a tax filer's family for the benefit year for which coverage is requested, the Exchange will accept the attestation of the tax filer's family size unless the Exchange finds that an attestation of a tax filer's family size is not reasonably compatible with other information provided by the application filer for the family or in the records of the Exchange. With the exception of

³ Electronic data matching with Medicaid and CHIP agencies is subject to the State agency's ability to provide data at this time. Exchanges verify Medicaid and CHIP eligibility using data from the Medicaid and CHIP agency in the State in which the Exchange is operating, in those States in which the Medicaid and CHIP agency is able to provide data at this time. Section 1411 explicitly addresses verification of employer-sponsored coverage but does not address verification of existing enrollment/eligibility in Medicaid and CHIP programs. Note that each new applicant will also have at least an assessment of Medicaid and CHIP eligibility as part of the APTC and CSR eligibility determination.

tax return data, the Exchange must use data obtained through other electronic data sources to verify the attestation. If such data sources are unavailable or information in such data sources is not reasonably compatible with the applicant's attestation, the Exchange must request additional documentation in accordance with the procedures specified in 45 CFR 155.315(f).

The FFEs and SBEs currently do not have access to a data source with information that could be used to verify an applicant's attestation regarding family size, such as prior eligibility records, and are therefore accepting applicant attestations at this time. HHS will continue to evaluate whether electronic data sources may be available to verify family size in the future.

45 CFR 155.320(c)(3)(ii) specifies the requirements for the annual household income verification process for eligibility for APTC and CSRs. The Exchange must compute annual household income based on tax return data and must require an applicant to attest regarding the tax filer's projected annual household income, which is done under penalty of perjury and other applicable penalties, including those specified in section 1411(h) of the ACA. To the extent the attestation indicates the tax return income represents an accurate projection of the tax filer's household income for the benefit year for which coverage is requested, the Exchange must determine eligibility for APTC and CSRs based on the tax return information. To the extent tax return data are not available or an applicant attests that a change in circumstances has occurred or is reasonably expected to occur, and the tax return data therefore does not represent an accurate projection of the tax filer's household income for the benefit year for which coverage is requested, the Exchange must require the applicant to attest to the tax filer's projected household income for the year for which coverage is requested.

FFEs and SBEs use the operational process of electronic data matching with IRS, SSA, and current sources of income to verify annual household income.

Section 155.320(c)(3)(iii) describes the requirements for the verification process for increases in household income and states the following: if an applicant's attestation of projected household income, which is made under penalty of perjury and other applicable penalties, including those specified in section 1411(h) of the ACA, indicates a tax filer's income has increased or is reasonably expected to increase from the income reflected in tax return data for the benefit year for which coverage is requested and the Exchange has not verified the applicant's MAGI-based income to be within the applicable Medicaid or CHIP MAGI-based income standards, the Exchange must accept the applicant's attestation for the tax filer's family. However, if MAGI-based income sources available to the Exchange indicate that the applicant's projected annual household income is in excess of his or her attestation by a significant amount, or if other information provided by the applicant indicates that his or her projected annual household income is in excess of his or her attestation by a significant amount and information from MAGI-based income sources is not available or is not reasonably compatible with the applicant's attestation, then the Exchange must request additional documentation to support the attestation in accordance with the procedures specified in 45 CFR 155.315(f)(1) through (4).

FFEs and SBEs use the operational process of electronic data matching with current income sources including, for the FFEs and some SBEs, data matching with Equifax Workforce Solutions. For SBEs,

another common data source used to verify current income is state wage data from the State Wage Information Collection Agency (SWICA).

Section 155.320(c)(3)(iv) specifies the requirements for the alternate verification process for decreases in annual household income and situations in which tax return data are unavailable. It states that a tax filer qualifies for the alternate verification process if an applicant attests to projected annual income in accordance with section 155.320(c)(3)(ii)(B); the tax filer does not meet the criteria for the verification process for increases in household income; the applicants in the tax filer's family have not established MAGI-based income to be within the applicable Medicaid or CHIP MAGI-based income standards; and one of the following criteria is met: the Department of the Treasury does not have tax return data that may be disclosed for the tax filer that is at least as recent as the calendar year two years prior to the calendar year for which APTC or CSRs would be effective; the applicant attests that the applicable family size has changed or is reasonably expected to change for the benefit year; the applicant attests that a change in circumstances has occurred or is reasonably expected to occur and so the tax filer's annual household income has decreased or is reasonably expected to decrease; the applicant attests that the tax filer's tax filing status has changed or is reasonably expected to change; or an applicant in the tax filer's family has filed an application for unemployment benefits.

If a tax filer qualifies for an alternate verification process and the applicant's attestation to projected household income is greater than ten percent below the annual household income computed by the Exchange based on the tax return data, or if tax return data are unavailable, then the alternate verification procedures are specified in 45 C.F.R. 155.320(c)(3)(vi). That section states that, for an applicant in this situation, the Exchange must attempt to verify the applicant's attestation of the tax filer's projected annual household income by using annualized data from the MAGI-based income sources and other electronic data sources approved by HHS, based on evidence showing that such data sources are sufficiently accurate and offer less administrative complexity than paper verification. If an applicant's attestation regarding a tax filer's projected annual household income indicates that the tax filer's annual household income has increased or is reasonably expected to increase from the data regarding MAGI-based income for the benefit year for which coverage is requested, and the Exchange has not verified the applicant's MAGI-based income through the verification process for Medicaid and CHIP for MAGI-based household income to be within the applicable Medicaid or CHIP MAGI-based income standard, the Exchange must accept the applicant's attestation, unless the Exchange finds that the applicant's attestation of the tax filer's annual household income is not reasonably compatible with other information provided by the application filer or available to the Exchange through MAGI-based income data sources, in which case the Exchange must request additional documentation using the procedures specified in 45 C.F.R. 155.315(f). If electronic data are not available or the applicant attests to a projected annual household income that is more than ten percent below the annual household income computed using MAGI-based income sources, the Exchange must follow the inconsistency process specified in 45 C.F.R. 155.315(f)(1) through (4). If following a 90 day inconsistency period, an applicant has not provided additional information and data sources indicate that an applicant in the tax filer's family is eligible for Medicaid or CHIP, the Exchange must not provide the applicant with eligibility for APTC, CSRs, Medicaid, CHIP, or the BHP. If following a 90 day inconsistency period the Exchange is unable to verify the applicant's attestation, the Exchange must determine the applicant's

eligibility based on the Exchange's computation of annual household income based on tax return data. If following a 90 day inconsistency period the Exchange is unable to verify the applicant's attestation and the tax return data are unavailable, the Exchange must determine the tax filer ineligible for APTC and CSRs.

FFEes and SBEs use the operational process of electronic data matching with current income sources and additional documentation requested from the applicant.

Verification related to enrollment in an eligible employer-sponsored plan and eligibility for qualifying coverage in an eligible employer sponsored plan

For applicants who are applying for APTC or CSRs on the basis that the applicant's (or related individual's) employer is not treated under section 36B(c)(2)(C) of the Internal Revenue Code as providing minimum essential coverage (MEC) or affordable MEC, section 1411(b)(4) of the ACA specifies the information that must be provided regarding employer sponsored coverage. This information includes the name, address, employer identification number (if available) of the employer; whether the applicant (or related individual) is a full-time employee and whether the employer provides minimum essential coverage; if the employer provides minimum essential coverage, the lowest cost option for the applicant (or related individual) and the applicant's (or related individual's) required contribution under the employer-sponsored plan; and if the applicant claims an employer's minimum essential coverage is unaffordable, the information regarding income and family size specified in section 1411(b)(3) of the ACA and discussed above.

45 CFR 155.320(d) specifies the verification related to enrollment in an eligible employer-sponsored plan and eligibility for qualifying coverage in an eligible employer-sponsored plan. The Exchange must verify whether an applicant reasonably expects to be enrolled in an eligible employer-sponsored plan or eligible for qualifying coverage in an eligible employer-sponsored plan for the benefit year for which coverage is requested. The Exchange must obtain data about enrollment in and eligibility for an eligible employer-sponsored plan from any electronic data sources available to the Exchange and which have been approved by HHS, based on evidence showing that such data sources are sufficiently current, accurate, and minimize administrative burden. Additionally, the Exchange must obtain any data regarding enrollment in an employer-sponsored plan or eligibility for qualifying coverage in an eligible employer-sponsored plan based on Federal employment by transmitting identifying information to HHS to provide the necessary verification, and must obtain any available data from the SHOP that corresponds to the state in which the Exchange is operating. Data from the SHOP are not currently available for this purpose, but will be used for verification once the data are available. The Exchange accepts the applicant's attestation regarding the employer-sponsored coverage verification unless the applicant's attestation is not reasonably compatible with the foregoing verification information obtained by the Exchange, other information provided by the applicant, or other information in the records of the Exchange. If the attestation is not reasonably compatible with this information, the Exchange must follow the inconsistency procedure specified in 45 CFR 155.315(f). Additionally, for applicants for whom the Exchange does not have any of the foregoing verification information, the Exchange must select a statistically significant random sample of applicants and verify the attestation regarding

employer-sponsored coverage by following the procedures specified in 45 CFR 155.320(d)(3)(iii) to contact the employer(s) listed on the application. If the Exchange receives relevant information from an employer, the Exchange must determine the applicant's eligibility based on such information. If, after a 90 day period, the Exchange has not obtained the necessary information from an employer, the Exchange must determine eligibility based on the attestation provided with the application. The Exchange has the option to perform verifications using this statistically significant random sample method for the first year of operations, and must use this method for eligibility determinations for APTC and CSRs that are effective on and after January 1, 2015. Alternatively, for the first year of operations, the Exchange may accept the applicant's attestation regarding enrollment in an eligible employer-sponsored plan and eligibility for qualifying coverage in an eligible employer-sponsored plan for the benefit year for which coverage is requested.

To support employer-sponsored coverage verification, the application for APTC or CSRs must include information regarding the applicant's access to employer-sponsored coverage on the application.

Section III: Procedures Employed by CMS to Ensure Appropriate Verifications of Eligibility Performed by State-based Exchanges

Under 45 CFR 155.105, in order for a State to receive approval from HHS to operate a State-based Exchange (SBE), a State must complete and submit an Exchange Blueprint that documents how the Exchange meets, or will meet, all applicable requirements, and must demonstrate operational readiness to operate an SBE. The Exchange Blueprint application, published in May 2012, identifies the set of discrete requirements that an SBE must meet in order to receive this approval. These requirements include the capacity to determine eligibility for APTC and CSRs, to conduct verifications of eligibility pursuant to 45 CFR 155, Subpart D, and to electronically connect to data sources to conduct such verifications.

Under the Exchange Blueprint, SBEs must be able to perform required eligibility verifications by matching applicant data against the Federal data sources discussed above through an automated connection with the FDSH. SBEs must provide supporting documentation to demonstrate their ability to meet these requirements in order to receive Blueprint approval from CMS. SBEs were required to submit their Blueprint applications to HHS by December 15, 2012 and, as provided under 45 CFR 155.105, HHS granted SBEs approval of their Blueprint applications on a conditional basis on January 1, 2013. Conditional approval means that each SBE has a set of conditions with timelines that must be met in order to receive full approval as an SBE. The conditional approval of the SBE Blueprint applications was based on the evidence of progress towards meeting the Blueprint requirements, along with assurances each SBE provided that they would meet the requirements in areas where they had not yet achieved operational readiness as of January 1, 2013. CMS took this approach towards granting approval by the required January 1, 2013 date on the basis that all SBEs were still actively in the process of completing implementation of information systems functionality and operational processes to perform Blueprint-required activities when the Blueprint applications were due to CMS on December 15, 2012.

As part of demonstrating their ability to perform Blueprint-required activities correctly and in an automated manner, SBEs were required to perform a set of CMS-defined end-to-end information system tests. To this end, CMS developed 23 test scenarios, representing 75 test cases, for SBEs to conduct. Each test scenario is designed to test the ability to meet a particular requirement in the Exchange Blueprint and contains a set of 3 to 4 test cases. Each set of test cases that are associated with a test scenario vary in degree of difficulty from more basic test cases to more complex test cases. These tests, known as “Blueprint tests,” allow SBEs to complete a standard set of tests using CMS-specified data inputs to arrive at CMS-specified outcomes. This approach standardizes the testing and evaluation of results by CMS. Among the 23 Blueprint test scenarios are 10 test scenarios (listed below and representing 30 test cases) that address the ability of an SBE to correctly verify and determine eligibility for QHP coverage through the Exchange, both with and without eligibility for APTC and CSRs.

3.3b	The Marketplace has the capacity to accept and process applications, updates, and responses to redeterminations from applicants and enrollees online.
3.4b	The Marketplace has the capacity to conduct periodic data matching pursuant to 45 CFR 155, subpart D and act on the results of the data matching
3.4c	The Marketplace has the capacity to conduct annual redeterminations and process responses through all channels pursuant to 45 CFR 155, subpart D.
3.5	The Marketplace has the capacity to conduct verifications pursuant to 45 CFR 155, subpart D, and is able to connect to data sources, such as the Data Services Hub, and other sources as needed.
3.7a	The Marketplace has the capacity to determine individual eligibility for QHP coverage through the Marketplace.
3.7b1-2	The Marketplace has the capacity to determine eligibility for Medicaid and CHIP based on MAGI or The Marketplace has the capacity to assess eligibility for Medicaid and CHIP based on MAGI.
3.8	The Marketplace has the capacity to determine eligibility for Advance Payments of the Premium Tax Credit (APTC) and Cost Sharing Reductions (CSRs), including calculating maximum APTC, independently or through the use of a Federally-managed service.
3.10	The Marketplace has the capacity to accept applications and updates, conduct verifications, and determine eligibility for individual responsibility requirement and payment exemptions independently or through the use of Federally-managed services.
3.12a*	The Marketplace has the capacity to process QHP selections and terminations using electronic enrollment transaction standards in coordination with issuers and CMS.
3.12b	The Marketplace has the capacity to compute actual APTC.

CMS defined the input data for states to use in performing these 10 Blueprint test scenarios such that SBEs would produce certain a certain set of eligibility verification and determination outcomes if the tests was performed correctly. These 10 Blueprint test scenarios also required states to make calls to the FDSH verification services so that the FDSH could respond to the verification calls by providing the appropriate Blueprint test input data to states so they could complete the Blueprint test. Thus, in order to complete these 10 Blueprint tests, SBEs needed to have first gone through the step of establishing connectivity to the FDSH. This step was completed by all SBEs by October 1, 2013. Therefore, since October 1, 2013, SBEs have been able to utilize the FDSH to perform eligibility verifications as part of their Exchange operations. Both the CMS Blueprint tests and establishment of FDSH connectivity were

intended to supplement and occur in conjunction with each SBE's own internal testing of eligibility verification and eligibility determination functionality.

As evidence that SBEs performed the Blueprint tests correctly, each SBE was required to provide evidence and supporting documentation demonstrating their usage of the CMS-specified input data and how they achieved the CMS-specified test outcomes. As part of this evidence and supporting documentation, each SBE was also required to submit a certification of the Blueprint test results from the SBE's Independent Verification and Validation (IV&V) entity. These are entities that each SBE contracts with to perform independent oversight of the SBE's information system implementation effort.

Blueprint testing began in the summer of 2013. Blueprint testing by SBEs will continue through the end of December 31, 2013 and into 2014, so that SBEs can perform tests using certain enhancements to the FDSH verification services that are not yet available. This would include testing an SBE's ability to conduct eligibility re-determinations using the FDSH quarterly eligibility verification service, as well as testing an SBE's ability to correctly submit monthly and annual eligibility reports to CMS and IRS which are required of SBEs beginning in 2014.

Conclusion

We note that application filers must attest, under penalty of perjury, that they are not providing false or fraudulent information when completing an application. In addition to the existing penalties for perjury, section 1411(h) of the ACA applies penalties when an individual fails to provide correct information based on negligence or disregard of program rules, or knowingly and willfully provides false or fraudulent information. Moreover, the IRS will reconcile APTC to actual PTC eligibility when consumers file their annual tax returns, and it will recoup overpayments and provide refunds when appropriate, subject to statutory limits. These safeguards all apply no matter which type of Exchange is operating in a State.